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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,381	04/11/2007	Gary Wingett	915-018.011	1277

10945 7590 05/23/2011

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EXAMINER

WONG, ALBERT KANG

ART UNIT	PAPER NUMBER
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2612

MAIL DATE	DELIVERY MODE
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05/23/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/584,381

Applicant(s)

WINGETT ET AL.

Examiner

ALBERT WONG

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,7-13,15-17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,7-13,15-17 and 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2011 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. This Office action is in response to the amendment filed May 2, 2011. Claims 1-3, 7-13, 15-17, and 19-23 are pending. The rejections under 112, first paragraph have been withdrawn in view of the amendment. The proposed drawing changes have been approved and the drawing objection has been withdrawn. The art rejections have been modified to address the amendments to the claims.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-3, 7-13, 15-17, 19-21, and 22-23 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nogushi et al (6,903,652).

Regarding claim 1, the claimed planar body is shown generally as item 53 and the claimed input key is shown as items 55 and 56a. The added wherein clause is considered to be merely a use limitation, and thus, it is given no patentable weight. Apparatus claims are distinguished by their structural differences. Alternatively, even if the limitation is given some

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weight, the use of the input apparatus in a hand-portable electronic device would have been considered obvious since any particular input device is not limited to one particular use any more than a keyboard disclosed in a car would not be applicable to a hand-held portable device. Further, the disclosure in Nogushi for the use of the input device is for devices such as radios. There devices are well known to have hand-held portable equivalents.

Regarding claims 2-3, the key in Noguchi requires some means of sensing the rotation of the key. Since the elements are in close proximity to each other, it would have been obvious to detect rotational movement by some form of contact between the key and the body. Such contact may be annular as well as on the planar portion.

Regarding claim 7, the location of a key on recessed area of a planar surface is conventional. A recessed area would allow the height of the key to be adjusted with respect to the other components. Such a recess would be for ergonomic or aesthetic purposes and would not affect the functionality of the key.

Regarding claims 8 and 9, the stanchion or key is shown as item 56.

Regarding claim 10, Figure 18 shows item 56B which is a plurality of keys. It would have been obvious to locate the contact portions of the keys on the planar body because the integration of the key function on a single surface would simplify construction of the device.

Regarding claim 11, item 55 is a rotary key.

Regarding claim 12, item 12 is an annular key.

Regarding claim 13, printed circuit boards may be flexible mats. It would have been obvious for item 53 to be flexible since it is a printed circuit board.

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Regarding claim 15, all components may be detachable. It would have been obvious to make the key detachable so that defective components may be replaced easily.

Regarding claims 16-17, one of ordinary skill in the art would recognize that key input structures are not limited to particular applications. Rotary keys are found on radio telephones. It would have been obvious to modify a radio telephone to incorporate the key structure in Noguchi to gain the functionality of selective inputs as taught in the reference.

Regarding claim 19, this claim is the method equivalent of claim 1. Since the apparatus has been anticipated the method of making the apparatus is similarly anticipated. Although a new method of using an existing apparatus may be patentable, the use of an input device is not limited to non-portable applications since portable devices would have the same benefit arising from particular input means that would be found in non-portable devices.

Regarding claims 20-21, these limitations have been addressed in prior claims.

Regarding claim 22, the claimed planar body is shown generally as item 52; the claimed input key is shown as item 55; and the claimed means for attaching the key to the body is shown as the associated hardware. The added wherein clause has been addressed in a prior claim.

Regarding claim 23, this limitation has been addressed in prior claims.

Response to Remarks

5. The addition of functional and/or use limitations within apparatus claims are not given patentable weight because apparatuses are distinguished by structure. The mere recitation of a particular use is insufficient to distinguish a claim from an existing device. Further, the use of input devices is not limited to non-portable devices. Input devices (i.e. keyboards) are usable in variety of devices including both portable and non-portable. Also, the method of making an

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input device as part of a portable device is not patentably distinct. Since the use in either portable and non-portable devices are obvious, the method of making the input device for only certain devices would also have been obvious for the reason that input devices are not limited to any type of device and are usable in both portable and non-portable devices.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ALBERT WONG** whose telephone number is (571)272-3057. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian A. Zimmerman can be reached on 571-272-3059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Albert K Wong/
Primary Examiner, Art Unit 2612

May 19, 2011